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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,498	02/20/2001	Jirko Heide	31976-169318	6531

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EXAMINER

LAMB, BRENDA A

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/785,498

Applicant(s)

Heide

Examiner

LAMB

Group Art Unit

1734

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 6/10/03
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-9 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-8 is/are rejected.
- ☒ Claim(s) 9 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 11
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Lagogue.

Lagogue teaches the device for urging a substrate against an implement which is comprised of a back support 8 having a convex surface arranged to contact one side of a substrate and a bearing/support 14 mounting the back support such that the back support has a plurality of freedoms of movement in a plurality of or three directions relative to the implement. The Lagogue device for urging is capable of the end use of urging a blank against a dispensing implement. With respect to claims 3-4, Lagogue teaches the at least one bearing defines at least one pivot axis for the back support and one of the freedoms of direction includes pivotability of the back support relative to the axis. With respect to claims 5-7, Lagogue teaches a means for yieldably biasing the back support to a predetermined position relative to the least one bearing. Lagogue teaches the biasing means includes at least one spring, which reacts to bear upon the back support.

Applicant's arguments filed June 10, 2003 have been fully considered but they are not persuasive.

Applicant's argument that Lagogue fails to teach freedoms of movement in a plurality of direction since movement of support 14 is constrained in one direction relative to the implement is found to be non-persuasive. Lagogue teaches the back support has plurality of freedoms of movement relative to the implement. The fact that the mobile support device/bearing is limited in degree as it refers to one of the plurality of freedoms of movement in a direction relative to the implement or more specifically limited in freedom of movement as the mobile support device/bearing pivots to the right toward a position opposite the implement with substrate arranged there between as shown in Figure 1 does not define applicant's invention over Lagogue since applicant's claims are open with the term "comprising" to any degree of freedom of movement including one with limited degree of freedom of movement in a direction since the claims do not require the back support have unlimited degree of freedom of movement in a given direction relative to the implement.

Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Brenda A. Lamb at telephone number 703-308-2056. The examiner can normally be reached on Monday and Wednesday through Friday with alternate Tuesdays off.


BRENDA A. LAMB
PRIMARY EXAMINER

B. A. Lamb/dh
August 25, 2003